



Virginia
Regulatory
Town Hall

Proposed Regulation Agency Background Document

Agency Name:	State Lottery Department
VAC Chapter Number:	11 VAC 5-10-10 et seq.
Regulation Title:	Guidelines for Public Participation in Regulation Development and Promulgation
Action Title:	Amend for clarification and simplification
Date:	09/27/2002

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

Summary

Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The chapter establishes the public participation guidelines for the development and promulgation of lottery regulations. The proposed amendments clarify that the department will consider and respond to any petition for a new or amended regulation in accordance with § 2.2-4007 of the Code of Virginia; and they include clarifications, editorial revisions and elimination of unnecessary requirements.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the

Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

Section 58.1-4007 of the Code of Virginia authorizes the State Lottery Board to adopt regulations governing the establishment and operation of a lottery, and to amend, repeal or supplement the regulations as necessary. This Code section also provides that department regulations be promulgated in accordance with the provisions of the Administrative Process Act that requires agencies to provide for public participation in the promulgation of regulations. The Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and it comports with applicable state law and/or federal law.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

The proposed amendments include a requirement of the Code of Virginia that the department must consider and respond to any petition for a new or amended regulation in accordance with the provisions of § 2,2-4007 of the Code, they clarify existing language; they include editorial revisions; and they eliminate several unnecessary requirements. These regulations have not been revised since 1994 and certain revisions are needed. None of the revisions will affect the health, safety or welfare of the public.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.

The proposed amendments add the provision that the department will consider and respond to any petition for a new or amended regulation with 180 days of its receipt, as provided in the Code of Virginia. Current regulation language provides no time frame for the response. The amendments also eliminate certain unnecessary requirements, including the provision that lists of possible interested parties be obtained annually even though no regulatory action is anticipated, and the provision that the board must order the printing and distribution of final regulations. Numerous editorial revisions also are included.

Issues

Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of

interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

The advantage to the department is that the process for public participation in the promulgation of lottery regulations is clarified and simplified, while agency compliance with the requirements of the Administrative Process Act is maintained. There are no disadvantages to the public or the Commonwealth.

Fiscal Impact

Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.

There is no anticipated economic impact to the Commonwealth, localities, the public or the department.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.

11 VAC 5-10-20 – The amendment clarifies that the department is required to respond to regulatory requests in accordance with § 2.2-4007 of the Code of Virginia.

11 VAC 5-10-40 – The amendment states that the NOIRA is published in the Virginia Register.

11 VAC 5-10-50 – Because the department is exempt from this requirement to conduct review of regulations every two years, the amendment eliminates the specific time frame for periodic review of regulations.

11 VAC 5-10-70 – The amendment eliminates the need for the board to order the printing and distribution of final regulations.

11 VAC 5-10-80 – The amendment adds a statement that periodic review of the regulation will be conducted.

Alternatives

Please describe the specific alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

No alternatives were considered.

Public Comment

Please summarize all public comment received during the NOIRA comment period and provide the agency response.

No public comment was received in response to the Notice of Intended Regulatory Action.

Clarity of the Regulation

Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

The agency, through examination of the regulation, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

Periodic Review

Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.

Although no specific time period is established, the agency will conduct periodic reviews of the regulation to determine its continued effectiveness.

Family Impact Statement

Please provide an analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

This regulation has no impact upon families.